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BY ECF
Hon. Vernon S. Broderick
Thurgood Marshall, United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Fioranelli v. CBS Broadcasting Inc., et al.* (Case No. 15-cv-00952)

Dear Judge Broderick:

Plaintiff hereby responds to the May 1, 2015 letter to Judge Ramos requesting a pre-motion conference to dismiss the Complaint against defendant Testimony Films, Ltd. ("Testimony"), on the alleged ground that defendant Testimony has insufficient minimum contacts with the forum district, to make Testimony amenable to suit in this District. Testimony bases this allegation on "undifferentiated allegations" in the Complaint, which it asserts fail to demonstrate "either general or specific jurisdiction over Testimony in New York (D. Ltr. at 1).

Unfortunately for Testimony, its argument is unavailing. Testimony has sufficient contacts with the forum district and therefore the requisite personal jurisdiction exists over Testimony. First, personal jurisdiction in an action involving a federal question arising under the Copyright law (28 U.S.C. § 1338(a)) extends to the limit of the Due Process Clause. See, e.g., *Illinois v. Milwaukee*, 406 U.S. 91, 100 (1972). Jurisdiction is based on federal court power, not that of the State of New York. *Cargill v. Paschalis*, 1987 WL 17950 at * 1 (S.D.N.Y. Sept. 30, 1987).

Defendant Testimony does not dispute that it obtained the copyrighted subject matter from defendant CBS. Indeed, on a motion to dismiss for lack of personal jurisdiction, it cannot do so, as all statements contained in the Complaint must be accepted as true. *Kalnit v. Eichler*, 264 F. 3d 131, 135 (2d Cir. 2001). These actions, if proved, constitute copyright infringement under 17 U.S.C. § 106 involving Testimony, a British company, and CBS, a New York company. Without more, these facts sufficiently confer personal jurisdiction over Testimony on this Court.[1]

Plaintiff submits that Testimony has no basis for disputing personal jurisdiction, and that its request to file a motion dismiss for lack of personal jurisdiction should be denied. In the unlikely event that the Court is inclined to allow Testimony to go forward with its motion to dismiss under Rule 12(b)(2), Fed. R. Civ. P., plaintiff reserved the right to seek discovery concerned facts surrounding personal jurisdiction at least from defendants Testimony and CBS.

Finally, plaintiff submits that only one pre-motion conference should be held to address the numerous defendants who are requesting pre-motion conferences.

Respectfully submitted,

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[1] Testimony has not challenged service of process in its request for a pre-motion conference.